

### **REMARKS / ARGUMENTS**

In the above-mentioned Office Action, all of the pending claims, claims 1, 5-15, and 16-23, were rejected. The claims were rejected under Section 103(a) over Eglen. Additionally, objection was made to informalities in claims 7 and 18.

Responsive to the rejections of the claims, independent claims 1 and 15 have been amended, as set forth herein, in manners believed better to distinguish the invention of the present application over the cited reference.

With respect to exemplary claim 1, the recitation of the content creator database has been amended, now to state that the historical indicia indexed together with the content creators includes a categorized value that identifies a selected group into which respective content creators are categorized, depending upon prior sales histories of the other content of the respective content creators. The recitation of the initial price indicia associator is amended, now to state that the initial price indicia is based on the categorized value that identifies the selected group into which the content creators are categorized. And, the recitation of the price indicia adjustor is amended, now to stat that the adjustment of the initial price indicia is responsive to the demand, which is based upon indications of inquiries of availability of the content files. Independent claim 15 has been analogously amended.

Support for the amended recitation is found in the disclosure, e.g., on page 11, line 12-15, which states that sales value is a categorical value in which a content creator is categorized into a selected group depending upon the sales history of the content creator, page 4, lines 21-24, which states that prior sales history is represented in a categorization of prior sales in which a content creator is categorized in one of a selected number of categories based upon prior sales history of other content created by the creator, and page 5, lines 7-8, which states that requests for content comprise inquiries regarding the availability of content.

As now-presented, the independent claims are believed to be distinguishable over Eglen. And, accordingly, the rejection of these claims under Section 103(a) is respectfully traversed.

Specifically, the Applicants assert that the cited reference fails to disclose a database that includes a categorized value identifying groups into which content creators are categorized, fails to base an initial price indicia upon the categorized value, and fails to adjust an initial price indicia responsive to indications of inquiries of availability of content.

The Applicants acknowledge that Eglen discloses a system for dynamically pricing media. Paragraphs [0099], [0123], and [0136], e.g., make reference to initial pricing of an item. The cited sections include indication that the initial price is settable by a content supplier, content owner, or system administrator. None of the cited sections make disclosure of, nor is disclosure made elsewhere in the cited reference, of use of categorized values associated with content creators by which to initially price content. Paragraph [0123], for instance, merely states that the initial price is settable by a content supplier, an administrator, automatically by default, and/or historical prices for similar content. The Applicants assert, therefore, that the independent claims, as now-presented recites structure and methodology relating to the initial price setting that is neither shown nor suggested in Eglen.

Additionally, while Eglen make disclosure of adjustment of an initial price in, e.g., paragraph [0064], [0083], [0085], [0102], and [0122], there is no disclosure of making adjustment based upon inquiries of availability of content. Paragraph [0083], for instance, states that the price of a song can be dynamically adjusted based upon demand or other factors, such as the amount of transfer time, the length of the song, and the overall quality of the song. Neither this section, nor other sections, of Eglen make reference to adjusting price indicia responsive to inquiries of availability of the content. The Applicants assert, therefore, that the independent claims are further distinguishable over Eglen for this reason.

The remaining dependent claims, which include all of the recitations of their respective parent claims, are believed to be distinguishable over Eglen for the same reasons as those just-given with respect to their parent claims.

In light of the foregoing, therefore, independent claims 1 and 15 and the remaining dependent claims dependent thereon are believed to be in condition for allowance. Reexamination and reconsideration for allowance of the claims is respectfully requested. Such early action is earnestly solicited.

Respectfully submitted,

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